

908 KAR 3:020. Care and treatment of inmates of penal institutions.

RELATES TO: KRS 202A.201

STATUTORY AUTHORITY: KRS Chapter 13A, 194.050, 202A.191, 202B.060, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, created the Cabinet for Health and Family Services and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet. KRS Chapters 202A and 202B, relating to the hospitalization of an individual with mental illness, developmental and intellectual disabilities, direct that the Secretary for the Cabinet for Health and Family Services shall adopt rules and administrative regulations to effectuate the purposes of that chapter, including, but not limited to, the transfer of mental patients and alternate methods for involuntary hospitalization. The function of this administrative regulation is to prescribe the procedure to be employed in the hospitalization, care and treatment of an inmate of a penal institution who has been transferred to a hospital, forensic psychiatric facility or residential treatment center.

Section 1. Care and Treatment of Inmates. In the event that an inmate of any penal or correctional institution is transferred to a hospital, forensic psychiatric facility or residential treatment center pursuant to KRS 202A.201, the following rules shall apply:

(1) If the inmate voluntarily agrees to receive treatment in accordance with the individual treatment plan, the treatment may be provided until it is determined that treatment is no longer necessary or until the patient refuses continued treatment;

(2) If the inmate refuses to receive treatment, proceedings for involuntary hospitalization may be instituted in accordance with the provisions of KRS Chapters 202A and 202B and 501 KAR 6:020 addressing involuntary transfer proceedings pursuant to *Vitek v. Jones*, 445 U.S. 480, 100 S.Ct. 1254, 63 L.Ed.2d 552 (1980).

(3) Patients in a forensic psychiatric facility shall have the same rights as set forth in 908 KAR 3:010; provided, however, that locking patients in their cells for sleeping or census count purposes and restraints used for transportation or prevention of escape shall not be considered as seclusion or restraint as defined in the patient's bill of rights. (Recodified from 902 KAR 12:030, 3-7-1989; Am. 18 Ky.R. 2062; eff. 2-7-1992; TAm eff. 4-27-2016.)